

Welcoming Russian Navy to Cyprus Should Be a Violation of EU Law

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On Sunday [Cypriot](#) and [Russian](#) newspapers reported (under “local news”) that the Republic of Cyprus and the Russian Federation are in discussion of a possibility of granting the Russian military access to the bases on the island of Cyprus. There is no mistake: the news is coming from the Republic, not from the TRNC.

As a sovereign state, Cyprus is of course entitled to welcome the Russians, one might think – even if Russians tend to wear green uniforms [without any insignia](#) and bury their dead soldiers like lepers or thieves, [in secrecy](#). Nicaragua and Nauru – not even Belarus – recognise the sovereignty of the Russian-made Abkhazia and South Ossetia, where, just like in Crimea, Russian soldiers and sailors were stationed. Even if Cyprus is probably right not to be concerned with the prospect of becoming a new Crimea – not a direct possibility, indeed, for a country which does not control half of its territory already – it should probably be more careful in choosing its allies – when Russians had some money, they still refused, if one remembers well, [to bail Cyprus out](#), as Chancellor Merkel is said to have once proposed. Moreover, as ECtHR case-law unquestionably points out, Russian military and thugs, just as the Turks in Cyprus, play an identical role in bringing about human rights violations. It has been reported that [50.000 have been killed in Ukraine already](#) – hundreds of EU citizens from the Malaysia Airlines flight [included](#).

In legal terms, however, there is an important difference between Cyprus and other bankrupt pro-Russian countries in need of military bases, like Tajikistan or Armenia, for instance. The Republic of Cyprus is a Member State of the European Union (the part not under its control included). Membership comes with responsibilities and an expectation of faithfulness to the *acquis* and the values the EU stands for. It should not be taken lightly. What obviously causes concern, in this context, is the most unconstructive behaviour of the Republic vis-à-vis the European Union of which it is a full member. While Russia has long been demonstrating the tactic of attempting to break the EU’s unity on a number of issues from energy security to defence – Hungary, Greece and other countries have long been mentioned as candidates for becoming ‘[Moscow’s Trojan Horses](#)’ in the words of Jan-Werner Müller – news on negotiating access to the military bases is something quite extraordinary, even if such access does not involve permanent stationing of troops.

While [scholars](#) and EU [institutions](#) are puzzled about what to do with Hungary and how to deal with the breaches of the Rule of Law by the Member States of the EU in their own sphere of competence – Cyprus news provides yet another high point of the sad debate: what to do with the countries ready to undermine the very core of the Union’s foreign policy? In the current circumstances it would not be too far-fetched to state that dealing with the Russian military is unquestionably a violation of the values of peace, security and prosperity on the European continent, which all EU Member States (just like the institutions) are bound to promote. Yet, can we impose a fine on Cyprus for behaving like Tajikistan? Can we start an Article 7 EU procedure? The straightforward answer is probably ‘no’, yet, it is clear that the EU is in desperate need of tools to deal with such member states like the divided island. Speaking about offering the use of the military bases to the Russians while the killings in Ukraine are on-going is a denial of all what the EU stands for. Another sad reminder that probably too much in the EU is taken for granted with regards to the shared values and the nature of the Member States.

The EU is now a mature constitutional system, which profoundly affects the very nature of the states which are part of the EU: The option to choose a destiny which deviates from the EU’s foundational values set out in Article 2 TEU is closed to them. This by definition includes internal organisation *and* foreign policy too. If the values of human rights protection, peace, the rule of law and democracy are not dear to their heart, they, unquestionably, have to leave the Union: the procedure of how to do it is described in Article 50 TEU in detail. The special relationship between the EU and its Member States on the one hand and, simultaneously, between the Member States of the EU on the other, is such that EU values play a central role in the functioning of the legal organism of the Union. This is certainly the case, even notwithstanding the fact that such values do not find their automatic elaboration and expression in the *acquis*, which remains a tool with a clearly decipherable market bias, suffering

from many a lacuna when approached from the standpoint of the very values the Treaties profess.

Although the *acquis* on values and the values' enforcement does not spread far beyond Article 7 TEU, the matured Union generates legitimate expectations that its values will be defended and enforced – let alone not undermined outright, like in the Cyprus discussions. The outcome of such enforcement should necessarily be the restoration of a situation where each of the Member States of the Union fully adheres to the specific type of constitutionalism, based on democracy, the rule of law, human rights protection and other key principles, such as proportionality and loyal cooperation, and also demonstrates full adherence to the *acquis*. The EU-mandated type of constitutionalism implies the conduct of the foreign policy which is not indifferent to the values on which the Union is built. Having even one Member State among the twenty-eight which does not meet these criteria can be argued to necessarily result in undermining the whole construct, directly interfering with the prospect of the success of the common enterprise. In a forthcoming collection, co-edited with Elena Bashkeska ([Good Neighbourly Relations in the European Legal Context](#) (Brill Nijhoff, 2015)) I try to approach this through the ideal of good neighbourly relations known from international law. Speaking of breaching good neighbourly relations by creating clear externalities for other Member States will then provide an additional perspective on non-compliance with the values which come in addition to the classical understanding of the duty of loyalty.

The struggle for the continued observance of Article 2 TEU values in the EU is on-going. Arguably, it is now much more acute than ever before. Following the growing number of serious discussions on what to do with Hungary, given current developments there, Cypriot news is just another urgent reminder of the mounting necessity to upgrade the Union's role in dealing with values crises in the Member States – both internally and externally – issues which are indispensable for the Union's survival.

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